

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

TYRONE P. JAMES,	:	
Plaintiff	:	CIVIL ACTION NO. 1:01-1015
V.	:	(KANE, D.J.) (MANNION, M.J.)
YORK COUNTY POLICE	:	
DEPARTMENT, AGENT	:	
JAMES H. MORGAN, DET.	:	
RICHARD PEDDICORD, DET.	:	
RAYMOND E. CRAUL, SGT.	:	
GENE FELS, DET. KESSLER,	:	
C/O BAYLARK,	:	
Defendants	:	

ORDER

On August 17, 2004, the undersigned submitted a report and recommendation on the above-captioned matter. (Doc. No. 188). That report and recommendation, related to the motions for summary judgment filed by defendants Morgan, Westmoreland, Peddicord, Craul, Glowczeski, Kessler and Fells. (Doc. Nos. 135 and 146). On September 15, 2004, the district court judge reassigned the defendants' motion to compel discovery (Doc. No. 167); motion to extend time to file (Doc. No. 175); and, motion for production of documents (Doc. No. 189) to the undersigned. (Doc. No. 195).

With respect to the plaintiff's motion for an extension of time to file a brief in response to the defendants' motion for summary judgment (Doc. No. 175), that motion is **DENIED** as moot. The plaintiff filed his brief in opposition to the defendants' motion for summary judgment on July 15, 2004, together

with his statement of material facts, and appendix in support of his brief. (Doc. Nos. 177, 178, 179 and 180).

On June 22, 2004, the plaintiff filed a motion to compel discovery (Doc. No. 167), followed by a brief in support filed on July 6, 2004. (Doc. No. 171). The defendants filed a brief in opposition on July 28, 2004. (Doc. No. 187). The motion to compel generally relates to the plaintiff's contention that the defendants' discovery responses are inadequate. Since a report and recommendation has been filed recommending the same defendants be dismissed from the action, the plaintiff's motion to compel discovery (Doc. No. 167) is **DENIED** without prejudice to renewal, if the district court does not adopt the report and recommendation as to any defendant for which the plaintiff's motion to compel discovery is addressed.

Finally, the defendant has filed a motion for an order directing the U.S. Marshals to serve subpoenas for production of documents (Doc. No. 189). He has failed to file a brief in support as required by MDPA L.R. 7.6. This motion was filed a day after the undersigned filed a report and recommendation recommending to the district court judge that this matter be dismissed as to all defendants except the York County Police Department.

In light of the foregoing, the defendants' motion for an order directing the U.S. Marshal to serve subpoenas for production of documents (Doc. No. 189), is **DENIED** without prejudice to renewal should the district court not adopt the report and recommendation with respect to any of the defendants to whom the

request for production of documents is directed.

s/ Malachy E. Mannion

MALACHY E. MANNON
United States Magistrate Judge

Dated: November 23, 2004

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